

NATIONAL ARCHIVES**IRELAND**

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I. Preliminary remarks

1. (a) The formulation of detailed and precise proposals would be an extremely difficult and complex task at this stage - if it is possible at all. We do not know exactly, for example, what kind of new local administration may be set up in the North; nor do we know how far the British might go to meet our viewpoint; another doubtful factor, of course, is the strength of Unionist opposition to the idea of a strong Council.

- (b) If we regard the Council as an embryo institution of "the new Ireland", then we should not allow our "vested interests" to prevail against granting it real power and functions. This means that the Council would also deal with some Southern interests. If the Council and the settlement as a whole are now the most important issue for Ireland, it does not seem that we should allow consideration of particular Southern interests to determine our attitude towards the Council.

II. Minimum possibility (weak Council) and Maximum possibility (strong Council)

2. There is a wide range of possibilities for a Council of Ireland, lying between the following two extremes:-
 - (a) a nominal link only, with at most some fringe responsibilities in smoothing out and harmonising interests of both parts of the island where they overlap; a "talking shop" in effect, intended merely as a "sop" to us and to the minority in the North;

 - (b) a strong Council with real functions - perhaps even exclusive functions in certain areas, and a real in-built potential for growth.

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(a) is the present Unionist position; ^{Department of Foreign Affairs} (b) would presumably be our aim.

III. Maximum (strong Council)

3. Any Council that will operate properly will require acquiescence at least from the Unionists. This suggests a Council which
- (a) deals at the outset with matters which are fairly mundane, pragmatic and unlikely to cause confrontation and in the further growth of which real interests are engaged; and
 - (b) meets some Unionist concerns at the outset and is therefore more likely to be acceptable to them.

IV. Structural difficulties and problems

4. There are two innate structural or operational difficulties likely to arise in any council:
- (i) the fact that the Council is to be a "bridge" between a sovereign Government (Dublin) on the one hand and a local administration (Belfast) which is likely to have limited functions, on the other;
 - (ii) the practical difficulties of getting any Council to take decisions and act - that is, how to prevent Unionist "stonewalling" or blocking tactics.
5. The difficulty mentioned at 4(i) could be solved by providing for representation of Westminster on the Council. Such representation would mean in effect an Anglo-Irish Council. Obviously Westminster representation might, for example, assuage Unionist fears, ensure British commitment and make the transfer of British sovereignty to Council easier and make it possible for the British to push Unionists in our direction.

No

6. It is considered, however, that we should opt against an Anglo-Irish type of Council because

- (a) it savours of a return in the direction of the old Act of Union;
- (b) the basic aim is to bring about co-operation between the two parts of Ireland and to enable Britain to "phase out" eventually;
- (c) it would give Britain a voice in 26-Counties affairs;
- (d) it would probably be unacceptable to the Northern minority.

However, in practice, it may be necessary to provide some kind of machinery for the involvement of Westminster in matters where it has reserved powers.

7. The difficulty referred to at 4(ii) above raises the whole question of what the structures and procedures of the Council might be and is best considered under that specific heading (following paragraphs).

V. Possible structures and procedures

8. The question arises of whether the Council and/or a Parliamentary Assembly attaching to it might be directly elected by the general electorate. This would have certain attractions; it would give status and authority; it would get over the difficult question of establishing a "bridge" between a sovereign and a non-sovereign body; it might establish a nucleus for an all-Ireland government. However, its wider implications at this stage would frighten Unionist opinion and, apart from constitutional implications, it could produce a Council and/or Assembly which would not correspond in its political composition to the equivalent bodies in Dublin and Belfast.

9. As a minimum, all of the various (existing and new) areas of practical co-operation between administrations North and South

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Department of Foreign Affairs

established - even if it seems that there is no practical need for such formal sponsorship in particular cases (Transport, Foyle Fisheries, Lighthouses, Tourism, Electricity etc.). The aim, it seems, should be to "build up" and nourish the Council as far as possible by using every non-contentious means possible.

10. Beyond this, a whole range of options is open and it would be easy to put forward detailed suggestions of various kinds. More important, however, than the detail of numbers of members, frequency of meetings etc., is the basic underlying structure. A "model" worth considering here is the skeleton structure of the EEC itself - insofar as it has (i) a Council of Ministers; (ii) a Commission or administration; and (iii) a Parliamentary Assembly (whose potential is great but whose present function is largely to allow expression of views). One could suggest, therefore, the following skeleton structure for a Council of Ireland:

- (a) An executive Council of Ministers comprising Ministers from Dublin and their opposite numbers in the executive of the new Northern Assembly.
- (b) A small permanent and full-time Administration or Secretariat with, perhaps, a permanent Secretary or Secretary-General.
- (c) An Assembly of, say, 20 members selected from the new Belfast assembly and 20 from the Houses of the Oireachtas.

(a) above would be the body with real functions in taking decisions. In such a small "Minister to Minister" body, with practical pragmatic affairs to deal with, one would hope for little blocking or stonewalling tactics such as one might well find in a parliamentary type Assembly.

(b) though small at first, could possibly grow and develop a vested interest in ensuring the efficient working of the Council.

DFA/5 (c) would allow legislators to express views and get to know one another without giving them the power to block real progress. Department of Foreign Affairs

11. It must be stressed that many other possibilities are open. But even the above outline does suggest that (a) authority to make decisions should reside in an executive-to-executive link, with a continuing Secretariat even on a small scale; and (b) there should also be an inter-Assembly link with no power to block executive decisions.

VI. Possible functions and areas of responsibility of the Council

12. Here again a wide range of options is open. The following paragraphs are intended to throw out some ideas for discussion rather than advance specific proposals as to the functions of a Council.
13. The most obvious new development with an "in-built growth potential" onto which it could be desirable to "hook" the new Council, would be the EEC. The possibilities in this direction, however, would require very careful consideration.
14. It might be worth examining the extent to which the Council might be involved in an all-Ireland approach to security.
15. Examples of other possible areas and functions for the Council are the following:-
- (i) Areas in which some North-South co-operation has already taken place
 - Generation of electric power (atomic energy?)
 - Transport - railways, motorways, etc.
 - Foyle Fisheries
 - Irish Lights
 - Tourism
 - Museums, Art Galleries - exchange arrangements.
 - (ii) New areas
 - Physical planning

- Mineral and oil exploration and seabed mineral rights on coastal shelf
- Industrial promotion
- Arts Council co-operation (with even a joint Arts Council eventually)
- TV-Radio co-operation designed to open each part of the island to the TV/Radio of the other
- National Civil Service Commission
- Some link between Council and the more successful semi-State bodies.

16. Functions appropriate to the Council could be discharged in a variety of ways, e.g.

- (a) direct by the Council and its Executive with its own staff;
- (b) by a separate agency for the whole island reserving the power of broad policy decisions to the Council; and
- (c) by coordination of activities of separate Northern and Southern bodies.

Annex 1 - Council of Ireland as envisaged in the Government of Ireland Act 1920

Annex 2 - Points of difference between situation today and situation in 1920 when considering North/South institutional links today.

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Council of Ireland as envisaged in the Government of Ireland Act 1920 Department of Foreign Affairs 920General

The Act included provisions for the establishment of a Council of Ireland as a means to facilitate unity between the Parliaments and Governments of Southern Ireland and Northern Ireland to be set up by the same Act with equal powers and status, both within the U.K.

Composition of the Council of Ireland

1. Forty members in all to be elected from the Southern and Northern Parliaments - 13 from each House of Commons and 7 from each Senate.
2. A person nominated by the Lord Lieutenant who would be President of the Council and preside at its meetings.

Functions of the Council of Ireland

The extremely modest functions granted to the Council of Ireland were to be drawn from three separate sources:

1. Those allocated directly by the Act - in the fields of railways, fisheries and diseases of animals, where uniform administration throughout Ireland was deemed to be desirable (Section 10(2)).
2. Those which might be delegated, whether unilaterally or in response to a recommendation from the Council, by the Northern and Southern Parliaments. These include the power of making orders on matters within the competence of both parliaments and in cases where it would have been necessary to apply to the Parliament of the United Kingdom to bring in a private bill (Section 7(1)). In addition the Council would consider any questions which might appear in any way to bear on the welfare of North/South and, by resolution, make suggestions in relation thereto as they may think fit. (Suggestions so made were to have no legislative effect). Finally the Parliaments of Southern and Northern Ireland would, by identical Acts delegate to the Council any of the powers of these Parliaments and Governments (Section 10(1)).

DFA/5

Department of Foreign Affairs

3. Those powers which might evolve having regard to the rather comprehensive terms of reference of the Council. These powers included:
- (a) Eventual establishment of a Parliament for the whole of Ireland.
 - (b) Bringing about harmonious action between the parliaments and governments of Southern and Northern Ireland.
 - (c) Promotion of mutual intercourse and uniformity in relation to matters affecting the whole of Ireland.
 - (d) Provision for the administration of services which the two parliaments mutually agree should be administered uniformly throughout the whole of Ireland.

Procedure of the Council

1. The President (i.e. the Lord Lieutenant's nominee) would preside at Council meetings but would not be entitled to vote except in the event of an equality of votes. (By implication matters were to be decided in the Council on a simple majority basis).
2. The quorum of the Council was fixed at fifteen in the Act.
3. The Council had power, subject to the foregoing to regulate their own procedure, including the delegation of powers to committees.
4. The Act provided for changes in the constitution of the Council by identical Acts passed in the Southern and Northern Parliaments. Such Acts could, inter alia, provide for the election of all or any of the members of the Council by persons entitled to vote at parliamentary elections. (This brings to mind current Dutch advocacy of direct elections to the European Parliament instead of nominations from existing parliamentary memberships of the Nine. It has the distinct advantage of giving an enhanced status and power to the elected body).

DFA/5

Department of Foreign Affairs

5. "Before any order made by the Council in exercise of any legislative powers vested in the Council comes into force, the order shall be presented to the Lord Lieutenant for His Majesty's assent in like manner as a Bill passed by the Senate and House of Commons of Southern Ireland or Northern Ireland, and, on such assent being given, the Order shall have effect in Southern Ireland and Northern Ireland, respectively, as if enacted by the Parliament of Southern or Northern Ireland, as the case may be" (Section 10(4)).
6. Either Parliament could at any time revoke the delegation to the Council any powers which had been "for the time being" delegated to the Council and thereupon the powers in question ceased to be exercisable by the Council (Section 10(6)).

Finance

1. "The Council shall have power to appoint such secretaries and officers as, subject to the consent of the Treasury of Southern Ireland and the Treasury of Northern Ireland, they may think fit, and the salary and remuneration of those officers and any other expenses of the Council to such amount as the said Treasuries may approve shall, so far as not met as aforesaid, be paid out of moneys provided by the Parliaments of Southern Ireland and Northern Ireland in such proportions as the said Treasuries may mutually agree, or in default of agreement may be determined by the Joint Exchequer Board hereinafter constituted" (Section 10(5)).
2. In Section 20(5) it is provided that "any contribution towards the expenses of the Council of Ireland shall be treated as expenses of public services of Southern Ireland and Northern Ireland respectively".

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Points of difference between situation today and situation in 1920 when considering North/South institutional links today

1. The arrangement envisaged in the 1920 Act was a Council acting as a bridge between two subordinate Parliaments within the U.K. with the Lord Lieutenant's nominee presiding. Today a North/South institutional link would be between a sovereign Parliament/Government and a subordinate Assembly/Executive with powers that are likely to be even less than those enjoyed by Stormont under the 1920 Act.
2. Under the 1920 Act the orders of the Council of Ireland could not take effect until signed by the Lord Lieutenant.
3. The accession of both Ireland and Britain to EEC membership adds a completely new dimension to the situation, given the coincidence of many new North/South interests.
4. In the fifty-odd years since the Council of Ireland was first envisaged a good deal of functional North/South cooperation has developed and new areas of activity conducive to North/South collaboration have developed, e.g. tourism, electricity generation.